

FILEDAO 106 (Rev. 03/99) Affidavit for Search Warrant**UNITED STATES DISTRICT COURT** JAN 20 2006

MIDDLE DISTRICT OF ALABAMA

In the Matter of the Search of

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.**APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT**

The Premises of Donald Wayne and Nellie Ann Houston
 602 County Road 807
 Wedowee, Alabama 36278

CASE NUMBER: 3:06 MJ 7-CSC

I, Dwight Brown, being duly sworn depose and say: I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives and have reason to believe that on the person of or X on the property or premises known as (name, description and/or location)

SEE ATTACHMENT A

In the Middle District of Alabama there is now concealed a certain person or property, namely (describe the person to be seized)

SEE ATTACHMENT B

which are (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

contraband, evidence of the crime, fruits of the crime, instruments of the crime, concerning a violation of Title (18) United States code, Section(s) 922 (g) (1).

The facts to support a finding of Probable Cause are as follows:

SEE ATTACHMENT C

Continued on the attached sheets and made a part hereof.

Sworn to before me, and subscribed in my presence

January 13, 2006
Date

Charles S. Coady US Magistrate Judge

Name and Title of Judicial Officer

Dwight Brown
Signature of Affiant

Montgomery AL
City and State

Charles S. Coady US Magistrate Judge
Signature of Judicial Officer

ATTACHMENT A**DESCRIPTIONS OF THINGS TO BE SEARCHED*****The Premises***

The Premises of Donald Wayne and Nellie Ann Houston

Address: 602 County Road 807

including all outbuildings and appurtenances thereto
in the City of Wedowee
in the County of Randolph
in the Middle District of Alabama

The Vehicle

N/A

Premises' Physical Description

Stories - 1

Construction Type – Single-wide trailer, with an addition on the porch.

Color - Tan and Brown, with brown shingles on the addition.

The residence has the number 602 on the side of it. The numbers 602 are also on the mailbox in front of the residence.

The Premises Location From City

From the intersection of Alabama Highway 48 and U.S. Highway 431, travel westerly on Alabama Highway 48 for approximately .2 miles to the intersection of Alabama Highway 48 and 5th Street S.W. Turn south on 5th Street and travel approximately .8 miles, 5th Street turns into County Road 132. Travel on County Road 132 for approximately .3 miles until you arrive at its intersection with County Road 806. Turn west on County Road 806, travel approximately .4 miles to its intersection with County Road 807. Turn south on County Road 807, travel approximately .1 miles. 602 County Road 807 is on the right.

ATTACHMENT B**DESCRIPTION OF EVIDENCE TO BE SEARCHED FOR AND SEIZED*****FIREARMS***

Firearms and other items pertaining to the possession of firearms, including gun cases, ammunition, ammunition magazines, holsters, spare parts for firearms, firearms cleaning equipment, photographs of firearms or of persons in possession.

RECORDS/DOCUMENTS

The following books, records, documents or photographs, whether contained on paper in handwritten, typed, photocopied or printed form or stored on computer printouts, magnetic tape, cassette, disk, diskette, photo-optical devices, photographic film or any other medium.

Description of Particular Records/Documents: All documents and/or data as indicated above relating to the possession, transfer or purchase of firearms.

1. *Indicia of Control of the Premises*

Records that establish the persons who have control, possession, custody or dominion over the property searched and from which evidence is seized, such as: personal mail, checkbooks, personal identification, notes, other correspondence, utility bills, rent receipts, payment receipts, financial documents, keys, photographs (developed or undeveloped), leases, mortgage bills, and telephone answering machine introductions and fingerprints.

AFFIDAVIT

I, the undersigned affiant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. My name is Dwight Brown. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). I am presently assigned to the Montgomery, Alabama, Field Office. The Montgomery Field Office is one of several ATF offices supervised by the Nashville Field Division, which encompasses Alabama and Tennessee. The Montgomery Field Office's area of operation is the Middle District of Alabama.

In 1989, I received a Bachelor of Science (B.S.) Degree from West Georgia College in Carrollton, GA. My major area of study was Criminal Justice. I am a graduate of the Federal Law Enforcement Training Center and a distinguished graduate of the ATF National Academy. I have been a Special Agent with ATF since June 2001. Prior to my being a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, I was a Deputy Sheriff for the Rockdale County Sheriff's Department in Conyers, GA for 10 1/2 years.

My duty as a Special Agent is to enforce federal law. As an ATF Special Agent, I investigate violations of federal firearms and explosive laws. As a result of my training and experience as an ATF Special Agent, I am familiar with Federal criminal laws and know that it is a violation of Title 18 U.S.C. § 922 (g) (1) , for a convicted felon to posses a firearm.

Based on my experience in conducting and participating in search warrants, the experience and knowledge of conducting search warrants to which I have been exposed, and my instruction at the ATF academy, I know:

1. That persons possess in their residences, businesses, and other real property over which they have dominion and control, documents which indicate their occupancy and/or ownership such as: personal mail, checkbooks, identification, notes, correspondence, utility bills, rent receipts, payment receipts, financial documents, keys, photographs, leases, mortgage bills, ownership warranties, telephone answering machine introductions, that persons often have containers of undeveloped photographic film, containing

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photographs (when developed) of themselves occupying the property and that these containers of film are usually located within the property which is under their dominion and control.

2. That most people store their firearms in their homes; and
3. That persons who possess firearms usually possess other items related to firearms, such as: gun cases, ammunition, ammunition magazines, holsters, spare parts, cleaning equipment, photographs of firearms and receipts for the purchase of these items.

On January 10, 2006, ATF Special Agent Dwight Brown received a call from Investigator James Bailey of the Randolph County Sheriff's Department in Wedowee, AL. Investigator Bailey stated that on January 7, 2006 while investigating a domestic violence complaint along with the Wedowee Police Department, he had contact with Donald Wayne Houston. Houston is described as a black male, date of birth 9-7-1962, social security number XXX-XX-2946 and residing at 602 County Road 807 Wedowee, AL. Bailey stated that he knows that Houston has previously been convicted of Discharging a Gun into an Occupied Vehicle, a felony, in Randolph County. Bailey stated that while talking with Houston, Officer Kevin Walker of the Wedowee Police Department was standing on Houston's porch and observed a gun locker with several firearms in it. Bailey stated that he is very familiar with Houston. Bailey stated that Houston lives at the residence with his wife, Nellie Ann Houston, and their son, name unknown, who is approximately 14 years old. Nellie Ann Houston is described as a black female, date of birth 12-2-1964, social security number XXX-XX-8349.

On January 10, 2006, Investigator Bailey provided ATF Special Agent Dwight Brown with a Case Action Summary from the Randolph County District Criminal Court that shows that Donald Wayne Houston was cited on 12-4-05, by Alabama Game and Fish Officer Harry Clark and Wedowee Police Investigator Thomas Traylor, for Hunting without a License and No Hunting Orange, both misdemeanors. Houston plead guilty to both charges on 1-3-06. Brown talked with Investigator Thomas Traylor of the Wedowee Police Department. Traylor stated that he personally took the weapon from Houston, unloaded it and returned it, unloaded, to Houston. Traylor described that weapon as a Remington 1100 .12 gauge shotgun. Traylor stated that Houston told him that he has had the weapon for about 10 years.

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On January 10, 2006, ATF Special Agent Brown, Investigator Bailey and Investigator Traylor went to 602 County Road 807 to do a follow-up interview. There was no one at the residence. While standing on the porch, Brown observed a spent .270 Winchester round. Brown retrieved the round.

On January 10, 2006, Bailey provided Brown with a certified copy of a felony conviction for Donald Wayne Houston from the Circuit Clerk of Randolph County. According to the document Donald Wayne Houston was convicted of Discharging Gun into Occupied Vehicle in 1997. Investigator Bailey stated that he has worked for the Randolph County Sheriff's Department since 1985 and knows that this Donald Wayne Houston is the same person that was previously convicted of Discharging Gun into Occupied Vehicle.

In light of the foregoing, I respectfully request that a search warrant be issued for 602 County Road 807,

Wedowee, AL.



Special Agent, ATF

Approved by Assistant U.S. Attorney Susan R. Redmond

Sworn to and subscribed by me this 13th day of January, 2006

U.S. MAGISTRATE JUDGE

